



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

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BJG
Docket No: 9228-09
26 October 2009

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

You requested, in effect, that the fitness report for 20 August to 31 December 2008 be modified, in accordance with the revised report, with changes initialed by the reporting senior (RS), enclosed with your facsimile (fax) transmission dated 3 September 2009. The requested changes are as follows: raise the mark in section D.2 ("Proficiency") from "C" (fifth best of seven possible marks) to "E" (third best); E.3 ("Initiative") from "D" (fourth best) to "E"; and E.1 "Courage", E.2 ("Effectiveness under Stress"), F.1 ("Leading Subordinates"), F.3 ("Setting the Example"), F.4 ("Ensuring Well-being of Subordinates"), G.1 ("Professional Military Education"), G.2 ("Decision Making Ability") and G.3 ("Judgment") from "C" to "D." In the alternative, you requested that the fitness report at issue be removed.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 October 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable


statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 26 August 2009, a copy of which is attached. The Board also considered your fax transmission dated 3 September 2009 with enclosure.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB, except to note that you and the RS have now clarified what changes are requested. The Board observed that the reviewing officer (RO) concurred with the contested original marks. Finally, the Board found it an immaterial error that the RO referred to you as an "NCO" (noncommissioned officer), rather than an "SNCO" (staff NCO) and "SGT" (sergeant) rather than "SSGT" (staff SGT). In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

Although the Board voted not to modify the fitness report in question, you may submit the revised report and the RS's letter dated 31 March 2009 to future selection boards.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,


W. DEAN PFEIFFER
Executive Director

Enclosure